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09/839,630	04/20/2001	Frederick J. Zustak	50P4374	2466

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EXAMINER

SRIVASTAVA, VIVEK

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/839,630

Applicant(s)

ZUSTAK ET AL.

Examiner

Vivek Srivastava

Art Unit

2611

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claim 13 is rejected under 35 U.S.C. 102(e) as being anticipated by  
Klosterman (US 6,469,753).**

**Regarding claim 13,** Klosterman discloses and electronic program guide (herein after EPG) on an interactive television (see col 1 lines 19 – 24). Klosterman further discloses the EPG includes at least one television channel listing (see 'DISN' and 'ESPN' in fig 6b) and at least one virtual channel web site listing 640 (see fig 6b and col 9 lines 19 – 34) displayed on an information panel (see fig 6b). It is noted that the virtual channel is associated with a web page as selection of the virtual channel links to the 'Seinfeld' web page (see col 9 lines 18 – 38). Klosterman further discloses the EPG is accessible to receive a recording request by a user (see fig 5b) viewing the EPG to cause recording of the content displayed (see fig 5b) on selected channel (NBC).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1- 12 and 14 – 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klosterman et al (US 6,469,753) in view of Gotoh et al (US 6,314,235).**

**Regarding claim 1**, Klosterman discloses and electronic program guide (herein after EPG) on an interactive television (see col 1 lines 19 – 24). Klosterman further discloses the EPG includes at least one television channel (see 'DISN' and 'ESPN' in fig 6b) and at least one virtual channel 640 (see fig 6b and col 9 lines 19 – 34). It is noted that the virtual channel is associated with a web page as selection of the virtual channel links to the 'Seinfeld' web page (see col 9 lines 18 – 38).

Although Klosterman discloses enabling a user to access a graphics user interface associated with the interactive television to record a program (see fig 5b), Klosterman fails to disclose recording content associated with the virtual channel.

In analogous art, Gotoh teaches a system in which audio video data received from the internet can be recorded (see col 16 lines 27 – 31).

It would have been obvious modifying Klosterman to include the claimed recording content associated with the virtual channel i.e. internet web pages would have

provided a user with the ability to record web-pages enabling added flexibility in the system by enabling a user to watch content from the virtual channel at time convenient to the user. Therefore, it would have been obvious to one having ordinary skill in the art the time the invention was made to modify Klosterman to include the claimed limitation to enable recording of internet content thus providing the user with flexibility to view the content at a time convenient to the user.

**Regarding claim 2**, the combination of Klosterman discloses the claimed limitation, wherein Klosterman discloses receiving a user request to record content (see fig 5b) and the combination of Klosterman and Gotoh discloses recording content associated with at least one virtual channel (see claim 1 above).

**Regarding claim 3**, Klosterman discloses the user request is received at the television (see fig 4b).

**Regarding claim 4**, the combination of Klosterman and Gotoh fails to disclose wherein the user request is received via the television and sent to a web site associated with the virtual channel.

Official Notice is taken it is well known to transmit a user request for the recording or copying of content upstream to a server of headend to get authorization for recording or copying to ensure copyright protection is enforced. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Klosterman and Gotoh to include the claimed limitation to enforce copyright protection.

**Regarding claim 5**, the combination of Klosterman and Gotoh fails to disclose wherein the content is recorded on a medium inside the television.

Official Notice is taken that providing a memory inside the television for recording a program is well known to eliminate the need for an external memory. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Klosterman and Gotoh to include the claimed limitation to eliminate the need for an external memory.

**Regarding claim 6**, Klosterman discloses a VCR for recording content (see fig 1 and 12). It is noted that the content is recorded on medium inside the peripheral VCR.

**Regarding claims 7 - 9**, the combination of Klosterman and Gotoh fails to disclose wherein the user request selects a recording time listed on the program guide, wherein the user request specifies a recording time not listed on the program guide and wherein the user request specifies an immediate recording time.

Official notice is taken it is well known to provide a user with an option of having the user select a recording time listed on the program guide, a user request specifies a recording time not listed on the program guide and an immediate recording time to provide a user with a variety of recording options for recording programs immediately, in the near future or further away in the future. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Klosterman and Gotoh to include the claimed limitations to provide a user with a variety of recording options adding greater flexibility to the system.

**Regarding claim 10**, Klosterman discloses wherein the graphical user interface is the program guide (see fig 6b).

**Regarding claim 11**, Klosterman discloses the graphical interface is the virtual channel (see fig 6b and 6c). By selecting virtual channel 640 (fig 6b), graphical interface of the virtual channel is displayed (see fig 6c and 6d).

**Regarding claim 12**, Klosterman discloses the graphical user interface is an electronic program guide of the virtual channel (see fig 6b, 6c, 6d).

**Regarding claim 14**, Klosterman discloses and electronic program guide (herein after EPG) on an interactive television (see col 1 lines 19 – 24). Klosterman further discloses the EPG includes at least one television channel listing (see 'DISN' and 'ESPN' in fig 6b) and at least one virtual channel web site listing 640 (see fig 6b and col 9 lines 19 – 34). It is noted that the virtual channel is associated with a web page as selection of the virtual channel links to the 'Seinfeld' web page (see col 9 lines 18 – 38).

Although Klosterman discloses enabling a user to access a graphics user interface associated with the interactive television to record a program (see fig 5b), Klosterman fails to disclose recording content requested from a web site.

In analogous art, Gotoh teaches a system in which audio video data received from the internet can be recorded (see col 16 lines 27 – 31).

It would have been obvious modifying Klosterman to include the claimed recording content associated with a web site i.e. internet web pages would have provided a user with the ability to record web-pages enabling added flexibility in the system by enabling a user to watch content from the virtual channel at time convenient

to the user. Therefore, it would have been obvious to one having ordinary skill in the art the time the invention was made to modify Klosterman to include the claimed limitation to enable recording of internet content thus providing the user with flexibility to view the content at a time convenient to the user.

**Regarding claim 15**, the combination of Klosterman and Gotoh fails to disclose the claimed wherein the record select feature includes at least one pop-up menu.

Official Notice is taken that pop-menu's are a well known means for quickly and effectively grasping a user's attention. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Klosterman and Gotoh to include the claimed limitation to quickly and effectively grasp the user's attention.

**Regarding claims 16 and 17**, Klosterman fails to disclose a remote control unit, the remote control unit having an EPG button, when toggled, displays the EPG.

Official Notice is taken providing a EPG button on a remote is notoriously well known to provide a quick means for identifying and selecting the EPG for display. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Klosterman to include the claimed limitation to enable quick identification and toggling of the EPG screen.

**Regarding claim 18**, Klosterman discloses wherein the EPG further comprises at least one virtual channel indicator, the virtual channel indicator being associated with a respective web site listing 640 (see fig 6b and col 9 lines 19 – 34).



**Regarding claim 19**, Klosterman discloses a user can access the 'Seinfeld' web page by selecting the virtual indication 640 in the EPG (see fig 6b and col 9 lines 19 – 34).

**Regarding claim 20**, Klosterman discloses an information panel displaying information relevant to a channel on the program guide (see fig 5a and 5b).

**Regarding claim 21**, Klosterman discloses the EPG guide includes content from at least one web server for displaying the 'Seinfeld' web page (see fig 6b and col 9 lines 19 – 34).

**Regarding claim 22**, Klosterman discloses the claimed at least one television signal source (see distribution center 110 and service provider 140 in fig 1).

**Regarding claim 23**, Klosterman discloses an interactive television content server (see 'distribution center' 110 and 'service provider' 140 for transmitting the interactive guide content).

**Regarding claim 24**, Klosterman discloses the claimed wherein the record select feature is the program guide (see fig 5b).

**Regarding claim 25**, as discussed above, the combination of Klosterman and Gotoh discloses recording the virtual channel.

**Regarding claim 26**, Klosterman discloses wherein the record select feature is selected from icons or text for featured programs (see fig 5b).

**Claim 27** is met by the discussions above.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tomita et al (6,732,372) – Automatic reception / recording of programs

Istvan et al (2002/0060750) – Remote access to a synthetic channel page

Blake (2003/0031465) – Schedule system with enhanced recording capability

Imagaki (2001/0037511) – Program recording and distribution system

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Srivastava whose telephone number is (703) 305-4038. The examiner can normally be reached on Monday – Friday from 9 am to 6 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vs  
3/19/05



VIVEK SRIVASTAVA  
PRIMARY EXAMINER